



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

TJR
Docket No: 5794-02
28 August 2002

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 27 August 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marine Corps on 8 July 1966 at the age of 21. You served without disciplinary incident until 26 September 1967 when you received nonjudicial punishment (NJP) for failure to go to your appointed place of duty and were awarded a \$14 forfeiture of pay and extra duty for 14 days. About a month later, on 21 October 1967, you received NJP for failure to maintain proper surveillance as a sentinel and absence from your appointed place of duty. The punishment imposed was a \$90 forfeiture of pay and reduction to paygrade E-1. On 19 December 1967 you received your third NJP for failure to obey a lawful order and were awarded a \$20 forfeiture of pay, which was suspended for two months, and confinement on bread and water for three days.

On 28 May 1968 you were convicted by special court-martial (SPCM) of disobedience and sentenced to confinement at hard labor for two months. During the period from 9 September to 18 November 1968 you were in an unauthorized absence (UA) status on two occasions for a total of 50 days.

On 13 March 1969 you were notified of pending administrative separation action by reason of unfitness due to frequent involvement of a discreditable nature with military authorities. At that time you waived your rights to consult with legal counsel and to present your case to an administrative discharge board. Your commanding officer stated in his recommendation for discharge the separation processing had been delayed due to an investigation regarding the foregoing two periods of UA and a charge of theft, in which you confessed that you had stole a tape recorder and other articles from a privately owned vehicle. On 24 March 1969 a staff judge advocate noted that even though you were awarded a SPCM for theft, the execution of your discharge was delayed due to the fact that the victim had been discharged due to lack of a speedy trial. The discharge authority then directed an undesirable discharge by reason of unfitness due to frequent involvement of a discreditable nature with military authorities, and on 26 March 1969 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your youth and immaturity, service in Vietnam, and your contention that your misconduct was due to your addiction to heroin and marital problems. Nevertheless, the Board concluded these factors and contention were not sufficient to warrant recharacterization of your discharge because of your repetitive misconduct, which resulted in three NJPs and a conviction by special court-martial, in addition to the 50 days of UA and larceny for which no action was taken. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director